

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

3:08-cv-238

JAMES EARHART,
Plaintiff,

v.

COUNTRYWIDE BANK, FSB,
Defendant.

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ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Certify an Interlocutory Appeal (Doc. No. 34) and Plaintiff's Motion to Amend Order or in the Alternative, Motion for Relief from Dismissal of Claim (Doc. No. 41). On February 25, 2009, the Court issued a summary judgment Order that dismissed Plaintiff's claim for actual damages and Plaintiff's claim under North Carolina's Unfair Trade or Practices Act. (Doc. No. 33). In response, Plaintiff filed a Motion to Certify an Interlocutory Appeal of the Court's dismissal of the two claims. (Doc. No. 34). On February 27, 2009, the Court denied Plaintiff's Motion to Certify an Interlocutory Appeal, finding that the Court's February 25, 2009 Order did not involve a controlling question of law about which there is substantial ground for a difference of opinion. (Doc. No. 39 at 2). On March 2, 2009, the day before trial, Plaintiff filed a Motion to Amend the Summary Judgment Order, or in the Alternative, Motion for Relief from Dismissal of Claim. (Doc. No. 41). In the motion, Plaintiff requests that the Court reconsider its February 25, 2009 Order dismissing Plaintiff's claim for actual damages, including lost profits. The Court will continue the trial and reconsider its Order denying certification and its Order dismissing plaintiff's claims.

IT IS THEREFORE ORDERED that Defendant file a Response brief addressing the Plaintiff's Motion for Certification and Plaintiff's Motion to Amend the Order. Defendant must file

its Response brief within 20 days from the date of this Order. Plaintiff shall have 14 days to file its Reply brief.

Signed: March 4, 2009

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

